

***United States Court of Appeals
for the Second Circuit***

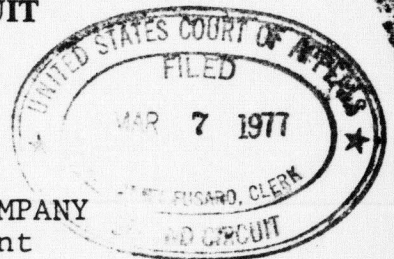


JOINT APPENDIX

77-7020

**United States Court of Appeals
FOR THE SECOND CIRCUIT**

No. 77-7020



INTERNATIONAL SILVER COMPANY
Plaintiff-Appellant

v.

UNITED STEELWORKERS OF AMERICA,
AFL-CIO, AND LOCAL #7770
U.S.W.A. AND ANTONIO ARESKO
Defendant-Appellees

B815

**On Appeal From the United States District Court
for the District of Connecticut**

JOINT APPENDIX

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Relevant Docket Entries

<u>DATE</u>	<u>PROCEEDINGS</u>
8/2/74	Petition for Removal to the U.S.D.C. for the District of Connecticut from the Superior Court of New Haven County in the State of Connecticut, filed by Defendant, together with summons and writ.
8/12/74	Answer and Counterclaim filed.
8/12/74	Defendant's Motion for Summary Judgment filed.
9/3/74	Plaintiff's Answer to Defendant's Counterclaim filed.
9/3/74	Plaintiff's Cross Motion for Summary Judgment filed.
9/4/74	Memorandum of Union Defendants in Support of Motion for Summary Judgment on the Counterclaim filed.
9/11/74	Plaintiff's Memorandum in Support of Summary Judgment filed.
8/18/75	Ruling on Cross-Motions for Summary Judgment filed and entered; Latimer, Magistrate, denied; Zampano, J., so ordered.
9/2/75	Defendant's Motion to Reconsider Ruling on Cross-Motions for Summary Judgment filed.
9/5/75	Plaintiff's Objections to Motion for Reconsideration filed.
9/24/75	Defendant's Motion to Reconsider Ruling on Cross-Motions for Summary Judgment denied by Zampano, J.

6/15/76 Court Trial Commences, Zampano, J.;
Decision reserved.

6/23/76 Plaintiff's Post-Trial Memorandum
filed.

7/1/76 Trial Memorandum of Union Defendants
filed.

12/1/76 Memorandum of Decision filed and
entered, Zampano, J.
Plaintiff's Petition to Vacate Award
is Denied;
Defendants' Counterclaim to confirm
the award is granted.

12/7/76 Judgment, entered, in favor of De-
fendants, and their counterclaim to
confirm labor arbitration award is
granted, Markowski, C.

1/4/77 Plaintiff's Notice of Appeal from
Judgment filed. Copies to all
counsel of record.

1/4/77 Plaintiff's Bond for Costs on Appeal
in amount of \$250.00 filed.

1/5/77 Certified Copies of Notice of Appeal,
Bond for Costs on Appeal and Docket
Entries sent Clerk, U.S. Court of
Appeals.

◇ TO THE SHERIFFS OF THE COUNTIES OF NEW HAVEN AND MIDDLESEX, THEIR DEPUTIES OR ANY OF THE CONSTABLES OF THE TOWNS OF MERIDEN, WALLINGFORD, WOODBRIDGE AND MIDDLETOWN WITHIN SAID COUNTIES, GREETING:

BY AUTHORITY OF THE STATE OF CONNECTICUT, You are hereby commanded to summon:

UNITED STEELWORKERS OF AMERICA, AFL-CIO, of
Amity Road, Woodbridge, Connecticut;

LOCAL 7770 of UNITED STEELWORKERS OF AMERICA,
AFL-CIO, of Pratt Street, Meriden, Connecticut;

ANTONIO ARESKO, of 53 East Main Street, Middletown,
Connecticut;

and other defendants as a class whose interests are
common to the defendant, Antonio Aresco, presently
undetermined;

to appear before the Superior Court to be held at New Haven, in
and for the County of New Haven, on the fourth Tuesday of July,
1974, then and there to answer unto INTERNATIONAL SILVER COMPANY,
a corporation organized and existing under the laws of the State
of Delaware and having a place of business in the Town of Meriden
in the County of New Haven and State of Connecticut, in a civil
action wherein the plaintiff complains and says:

1. The plaintiff is a corporation organized and existing
under the laws of the State of Delaware and having a place of
business in said Town of Meriden.

2. The defendants, United Steelworkers of America,
AFL-CIO, and Local 7770 of United Steelworkers of America, AFL-CIO,
are labor organizations certified as collective bargaining repre-
◇ sentatives of the employees of the plaintiff.

3. On March 26, 1973 International Silver Company and United Steelworkers of America, AFL-CIO, Local 7770 entered into a collective bargaining agreement which established the wages, rates of pay, hours of work and working conditions of the plaintiff's employees at its plants in Meriden, Connecticut and Wallingford, Connecticut. (A copy of said collective bargaining agreement is herein incorporated as Plaintiff's Exhibit 1 on file with the Clerk of the Court.)

4. Grievances of employees are processed under a grievance procedure set forth as Article IX in the collective bargaining agreement (Ex. 1).

5. A grievance is defined as "a difference * * * between the Company, the Union or any employee concerning the interpretation, application, compliance or non-compliance with the provisions of this Agreement * * *." (Ex. 1, Article IX, Section 1).

6. The grievance required under the contract to be in writing must set forth the specific provision of the contract which the Company is alleged to have violated. (Ex. 1, Article IX, page 14).

7. Grievances "within the scope of this Agreement" unresolved by the plaintiff and defendant union may be submitted to arbitration by either party. (Ex. 1, Article IX, Section 2, page 15).

8. The defendant, Antonio Aresco, on behalf of himself and other employees similarly situated, filed a grievance

◇ (Plaintiff's Ex. 2 attached hereto and made a part of this complaint), which grievance was unresolved and submitted to arbitration.

9. The authority and function of the arbitrator is specifically set forth as follows:

"The arbitrator shall have the authority to apply the provisions of the contract but in so doing shall have no power to add to or subtract from or modify in any way any of the terms of this Agreement." (Ex. 1, Article IX, Section 2(d), page 17).

10. Lewis M. Gill was selected under the direction of the American Arbitration Association and conducted a hearing at Wallingford, Connecticut on May 8, 1974 at which the parties appeared and were heard.

11. On June 6, 1974 the American Arbitration Association issued the decision and award of the arbitrator Lewis M. Gill. (Plaintiff's Ex. 3 attached hereto and made a part hereof.).

12. The decision and award was rendered (a) on a general agreement and (b) on a subsequent oral agreement both extraneous to the collective bargaining agreement. (Ex. 1).

13. The arbitrator exceeded the authority with which he was invested under the collective bargaining agreement by predicting his opinion on a purported general agreement and a subsequent oral agreement. (Paragraph 9 above).

14. This action is brought under Sec. 52-418(d) of the General Statutes of the State of Connecticut, Revision of 1972.

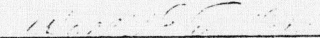
◇ The plaintiff therefore prays that a judgment be entered on behalf of the plaintiff as follows:

- (1) An order vacating the award, and
- (2) An order staying the confirmation of the award.

Arthur L. Shipman, Jr. of Hartford, Connecticut is recognized in the sum of \$200.00 to prosecute, etc.

Of this writ, with your doings thereon, make due service and return.

Dated at Hartford, Connecticut this 2nd day of July, 1974.


Walfrid G. Lundborg
Commissioner of the Superior Court

Please enter our appearance for the Plaintiff.


Shipman & Goodwin
799 Main Street
Hartford, Connecticut

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

INTERNATIONAL SILVER COMPANY	)	CIVIL ACTION
	)	NO. 874-284
VS.	)	
	)	NEW HAVEN, CONN.
UNITED STEELWORKERS OF AMERICA	)	
A.F.L. & C.I.O. and LOCAL #7770	)	
U.S.W.A. and ANTONIO ARESKO	)	AUGUST 2, 1974

PETITION FOR REMOVAL TO THE UNITED
STATES DISTRICT COURT FOR THE
DISTRICT OF CONNECTICUT FROM THE
SUPERIOR COURT OF NEW HAVEN COUNTY
IN THE STATE OF CONNECTICUT

Petitioner United Steelworkers of America, AFL-CIO, Local 7770, United Steelworkers of America, and Antonio Aresco, respectfully represent:

1. On July 3, 1974, United Steelworkers of America, AFL-CIO, a labor organization within the meaning of 29 USC Section 2(2) and 185(a) was served (reserving its rights to object to the sufficiency and/or method of such service) with a writ, summons, and complaint, which was filed in the Superior Court in and for the County of New Haven, in an action entitled International Silver Company vs. United Steelworkers of America, et al.

2. A copy of the writ, summons, and complaint are annexed hereto as Exhibit A and incorporated as if fully set out at this point. Only a special appearance by the defendants has been filed in that action, a copy of which is annexed hereto as Exhibit A. No other proceedings have occurred in that action.

3. The above described action is a civil action of which this court has original jurisdiction under the provisions of 29 USC, section 185, and is one which may be removed to this court by Petitioners, Defendants therein, pursuant to 28 USC, section 1441 in that (1) the action seeks vacation of an arbitrator's award issued pursuant to provision for arbitration in a collective bar-

gaining agreement between an employer and a labor organization, within the meaning of section 185(a); and (2) the action arises under the laws of the United States and the matter in controversy involves an amount exceeding \$10,000, exclusive of interest and costs.

4. Petitioners file herewith a bond with good and sufficient surety, in the form required by 28 USC, section 1446(c).

by their Attorneys,

JOHN A. ARCUDI
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Bridgeport, Conn. 06604

WARREN H. PYLE
ANGOFF, GOLDMAN, MANNING,
PYLE and WANGER
44 School Street
Boston, Mass. 02108

AGREEMENT

BETWEEN

International Silver Company
Meriden and Wallingford, Connecticut Plants

AND

United Steelworkers of America
AFL-CIO
LOCAL NO. 7770

MARCH 26, 1973

PREAMBLE

THIS AGREEMENT made and entered into as of this 25th day of March, 1973, by and between INTERNATIONAL SILVER COMPANY, located in the City of Meriden, County of New Haven and State of Connecticut, hereinafter referred to as the "Company", and UNITED STEELWORKERS OF AMERICA, AFL-CIO, (for itself and on behalf of LOCAL 7770), hereinafter referred to as the "Union", each for itself, its successors and assigns.

WITNESSETH:

WHEREAS, it is the intent and purpose of the parties hereto that this agreement is designed to establish and promote the industrial and economic status of the parties, provide orderly collective bargaining relations between the Company and the Union, and secure a prompt and fair disposition of grievances so as to eliminate interruptions of work and interference with the efficient operation of the Company's business.

ARTICLE I RECOGNITION AND COVERAGE

Section 1. The Company recognizes the Union as the sole and exclusive collective bargaining agency for those of its employees within the meaning and purposes set forth in the certification of the National Labor Relations Board.

Section 2. For the purposes of this Agreement, the term "employee" as used herein shall apply to and include all production, maintenance and shipping employees in-

by the Company until such written notification has been received by the Company from a duly authorized officer of the Union.

Section 5. The Company shall furnish the Union in writing the names of supervisors and personnel in authority who shall represent the Company in processing grievances under the grievance procedure.

ARTICLE VIII INTERRUPTIONS TO PRODUCTION

Section 1. Employees will not, individually or collectively or acting through the Union as their collective bargaining agent or their designated representative, encourage, sanction, approve, engage in or authorize any strike, work slowdown, interference with or interruption of work of any employee or group of employees during the term of this Agreement.

Section 2. The Company agrees that neither it nor its representatives shall put into effect any lockout during the term of this Agreement.

Section 3. In the event that there is any unauthorized strike, work slowdown, interference with or interruption of work during the term of this Agreement, the Company shall not be required to negotiate with the employees or the Union as their representative as to the merits of any dispute until such time as the employees have returned to work.

Section 4. The Company may at its election take disciplinary action by way of suspension or discharge against any employees who initiate, encourage or participate in,

during the term of this Agreement, any strike, work stoppage, slowdown, interference with or other interruption of work performance.

Section 5. Should a strike, work slowdown or interference with or interruption of work occur, not called or sanctioned directly or indirectly by the Union, the Union, upon request of the Company, shall:

a) Publicly disavow such action by the employees within twenty-four (24) hours of the Company's request;

b) Advise the Company in writing that such action by employees has not been called or sanctioned by the Union; and,

c) Post notices on Union bulletin boards advising employees that it disapproves such action and instructing employees to return to work immediately.

ARTICLE IX GRIEVANCE PROCEDURE

Section 1. In the event that a difference arises between the Company, the Union or any employee concerning the interpretation, application, compliance or non-compliance with the provisions of this Agreement, an earnest effort will be made to resolve such difference in accordance with the following procedure which must be followed.

All grievances which affect the wages, rates of pay, working conditions or other conditions of employment of any employee shall, when reduced to writing in Step 1, be signed by that employee or in his name by the Union steward or grievance committeeman.

Step 1. An employee having such a grievance or complaint may, after notice to his immediate supervisor, take

it up with his foreman with or without the steward or grievance committeeman present.

A grievance of an employee may be presented either orally or in writing at this step of the grievance procedure. If the grievance is presented orally to the foreman and is not settled satisfactorily, it must be reduced to writing on the form provided. The dispositions given at Steps 1, 2, 3 and 4 of the procedure, together with the dates thereof, must be noted on the form and signed by the respective representatives of the Company and the Union.

When the grievance is reduced to writing there must be set forth in the spaces provided the following:

a) A statement of the grievance, the date thereof and the facts then known;

b) The violation, if any, of the Agreement which is alleged;

c) The remedy requested; and

d) The disposition of the foregoing will be given in writing, dated and including a statement of facts and the reasons for the disposition on the form provided within five (5) working days (excluding Saturdays, Sundays and holidays) after it is presented.

The steward or grievance committeeman shall be given an opportunity to be present and participate at the adjustment of a grievance arising under the terms of this Agreement if presented to the foreman directly by an employee.

Step 2. If the grievance is not settled by the foreman, then the grievance committeeman within whose area the grievance arose may take the grievance up with the appropriate superintendent at the next regularly scheduled meeting. The superintendent shall render a decision on the

grievance so presented as soon as possible but not later than five (5) working days (excluding Saturdays, Sundays and holidays) after such meeting.

The appropriate superintendent shall meet once a week on a regularly scheduled basis, with the appropriate grievance committeeman. Such meetings shall be so scheduled as to permit individual superintendents and committeemen to hear grievances relating to their respective areas of production.

The Company will produce the pertinent existing records relating to the employee and his grievance as may be necessary at this step of the grievance procedure.

Step 3. If the grievance is not settled satisfactorily by the superintendent an appeal therefrom may be taken by the Chairman of the Factory Grievance Committee to the appropriate factory manager to be considered at the next regularly scheduled meeting. The factory manager shall render a decision on the grievance so presented as soon as possible, but not later than ten (10) working days (excluding Saturdays, Sundays and holidays) after such meeting.

The meeting of the factory manager, for the purpose of hearing grievances shall be held twice a month with the Factory Grievance Committee unless otherwise agreed upon.

A grievance which affects a substantial number of employees, other than job evaluation grievances and which the foreman at Step 1 of this procedure lacks authority to settle, may be initiated and settled at this Step.

Step 4. If the grievance is not settled satisfactorily by the factory manager, an appeal therefrom may be taken by the Chairman of the General Grievance Committee with

the Director of Personnel of the Company within fifteen (15) days (excluding Saturdays, Sundays and holidays) after the factory manager's decision. The Director of Personnel will schedule a meeting with the General Grievance Committee and the International Representative to be held within ten (10) days (excluding Saturdays, Sundays and holidays) of the receipt of the appeal.

Such appeals to Step 4 of the grievance procedure shall be taken in writing and directed to the Director of Personnel of the Company.

The Director of Personnel will render a decision on a grievance so presented as soon as possible but not later than five (5) working days (excluding Saturdays, Sundays and holidays) after such meeting.

A claim that under the Hourly Job Evaluation Plan a job has been improperly evaluated shall be first taken up by the grievance committeeman for the area in which the job is located or a union representative designated by the Local with the Manager, Wage and Salary Administration within twenty (20) working days of the Union's receipt of such job.

Section 2.

a) It is agreed that a grievance within the scope of this Agreement which is not settled at Step 4 of the grievance procedure may be taken to arbitration by either party. The election to take the grievance to arbitration must be made by written notice, certified mail, within ten (10) days (excluding Saturdays, Sundays and holidays) of the date of the notice of the decision of the Company at Step 4 and a request for arbitration shall be made promptly to the American Arbitration Association in accordance with its rules and regulations. The cost of arbitration shall be shared equally by the Company and the Union.

b) It is understood and agreed that no grievance, dispute, misunderstanding or difference between the parties which occurs prior to the execution of this Agreement shall be submitted to arbitration under any of the provisions of this Agreement, except that employees and the Union will have the right to grieve the appropriateness of the evaluation of jobs and time standards established prior to the execution of this Agreement.

c) It is further understood that the decision of the arbitrator shall be supported by substantial evidence on the record as a whole and shall be final, conclusive and binding upon all employees, the Company and the Union.

d) The arbitrator shall have the authority to apply the provisions of the contract but in so doing shall have no power to add to or subtract from or modify in any way any of the terms of this Agreement.

e) The party referring a grievance to arbitration shall have the obligation of going forward with its case before the other party shall be required to present its case or adduce any testimony, except that the Company shall go forward with its case involving a discharge or suspension.

Section 3. In no event shall any disposition or award upon any grievance be made retroactive for any period earlier than thirty (30) days prior to the date the grievance was first filed orally or in writing, except that grievances involving wages shall be retroactive to the occurrence or non-occurrence of the event giving rise to the current grievance.

Section 4. Any employee shall have the right to appeal his discharge or suspension through the grievance procedure within five (5) working days from the date thereof. Failure to file such an appeal within five (5) working days

shall prohibit any further consideration of such discharge or suspension. If as a result of such appeal the employee is found to have been discharged or suspended without just cause, he shall receive pay for the time he would have otherwise normally worked less any earned income he may have received from any other employer. An employee who has been discharged or given a disciplinary suspension shall, before leaving the plant, be permitted to see the steward or grievance committeeman for the area in which he worked at a location designated by the Company, if he requests it of his foreman.

Section 5. The grievance of any employee or group of employees not presented for disposition through the grievance procedure described under Section 1 herein promptly after the occurrence of the condition giving rise to the grievance shall not be considered a grievance under this Agreement unless a satisfactory explanation shall have been given for the failure to present the grievance promptly.

Section 6. A member of the grievance committee or a steward may from time to time as the need arises, after notice to and permission from his foreman, leave his work, after making known his destination, for the purpose of handling grievances in his own department or in another department within his jurisdiction. Upon entering a department other than his own, he shall report to the foreman in charge of such department and make known the purpose of his being there.

Section 7. Time lost by a Union representative in the processing of grievances under Section 1 shall be recorded on a grievance card, in accordance with the instructions thereon. Such Union representative shall receive pay at his average year to date straight time hourly rate for

time spent during his normal scheduled working hours in the handling of grievances not exceeding three (3) hours in any week, except that the Chairmen of the Grievance Committee may receive four (4) hours' pay in any week.

ARTICLE X SENIORITY

Section 1. The Company and the Union subscribe to the principle that job security and an employee's length of continuous service are related and that promotional opportunities, reductions in force and recalls from layoff are important concerns of the employees and, therefore, length of continuous service shall be given full consideration in accordance with the provisions of this Article.

Section 2.

a) Continuous service or seniority is hereby defined as an employee's service commencing with the date of his first employment or his re-employment following a break in service.

b) There shall be no deduction of service for any time lost which does not constitute a break in continuous service as hereinafter defined.

Section 3. A break in an employee's continuous service thereby resulting in a loss of seniority shall result from any one of the following circumstances:

a) If he quits.

b) If he is discharged, except that if such discharged employee is re-employed within six (6) calendar months of his discharge, the resulting break in service shall be removed.

c) If he fails to report for work after layoff within seventy-two (72) hours after due notice by the Company to the employee's last address of record unless prevented from doing so because of personal illness or other legitimate reason.

d) If he is in the employ of another employer at time of recall and fails to report for work within seven (7) calendar days after due notice by the Company unless prevented by reason of personal illness or other legitimate reason.

e) If he is absent due to compensable disability incurred during the course of employment and fails to report for work within thirty (30) calendar days after final payment of statutory compensation for such disability or after the end of the period used in determining the amount of a lump sum payment.

f) If he refuses to accept recall to a job in which his recall rights reside as hereinafter defined.

g) If he had two (2) or more years of continuous service with the Company at the time of layoff for lack of work and such layoff continues for more than two (2) years.

h) If he had less than two (2) years of continuous service with the Company at the time of layoff for lack of work and such layoff continues for a period in excess of his total continuous service at time of layoff.

i) If he had two (2) or more years of continuous service with the Company at the time an absence due to personal illness begins and such absence continues for a period in excess of two (2) years.

j) If he had less than two (2) years of continuous service with the Company at the time an absence due to personal illness begins and such absence continues for a period in excess of his total continuous service.

Section 4. An employee shall be considered a probationary employee for the first sixty (60) calendar days of his employment and thereafter his seniority shall be from his most recent date of hire. In the case of probationary employees, there shall be no seniority status nor responsibility on the part of the Company for continuous employment nor for re-employment if terminated before the completion of their continuous probationary period. It is understood and agreed that during such probationary period, termination shall be at the sole discretion of the Company. It is further understood that in the event of continuing absences in excess of one work week, the employees' probationary period may be extended by the length of such absences.

Section 5.

a) For the purpose of this Article, previous job incumbency is hereby defined as an employee's having been assigned to such job on the record for a minimum of thirty (30) consecutive working days except that any such employee removed from a job for just cause shall lose all previous incumbency rights.

b) In the event that the content of a job has changed materially subsequent to an employee's having been a previous incumbent, incumbency rights as hereinafter defined shall not apply.

c) The company agrees to develop a list of jobs to which employees have previous incumbency on the record for a period of five (5) years previous to the date of this Agreement. The Company will maintain current previous incumbency records.

Section 6. In the event of an indefinite layoff for lack of work, employees scheduled to be laid off shall have

the privilege of displacing into other jobs in accordance with the following, applied in the sequence indicated:

a) He may displace a less senior employee in his assigned seniority group in a job where he had been a previous incumbent as defined in Section 5 (a) of this Article or in a job in his assigned seniority group he is qualified to perform satisfactorily within three (3) working days.

b) He may displace a less senior employee in his assigned seniority group in a job classified in the same or lower pay grade as the job from which he is laid off.

c) He may displace:

1) a less senior employee in a seniority group other than his assigned group where he had been a previous incumbent, or

2) a less senior employee in a job he is qualified to perform satisfactorily within three (3) working days.

d) He may displace:

1) a less senior employee in his Division General Pool where he had been a previous incumbent, or

2) the least senior employee in areas I or II or III of his Division General Pool provided that he is more senior than the employee to be so displaced.

e) He may displace:

1) a less senior employee in a Division General Pool other than his own where he had been a previous incumbent, or

2) the least senior employee in areas I or II or III of another Division General Pool provided that he is more senior than the employee to be so displaced.

Section 7. In the event of an indefinite layoff for lack of work, employees scheduled to be laid off from the General

Pool shall have the privilege of displacing into other jobs in accordance with the following, applied in the sequence indicated:

a) He may displace:

1) a less senior employee in his Division General Pool where he had been a previous incumbent, or

2) the least senior employee within areas I or II or III of his Division General Pool.

b) He may displace:

1) a less senior employee in another Division General Pool where he had been a previous incumbent, or

2) the least senior employee within areas I or II or III of another Division General Pool.

Section 8.

a) In the event of an indefinite layoff for lack of work, employees assigned to jobs in the Skills and Trades Seniority Group as defined in Appendix B and scheduled to be laid off shall have the privilege of displacing into other jobs in accordance with the following, applied in the sequence indicated:

1) He may displace a less senior employee assigned to a job in the Skills and Trades Seniority Group where he had been a previous incumbent as defined in Section 5 (a) of this Article, or is qualified to perform satisfactorily within three (3) working days.

2) He may displace a less senior employee in another seniority group, his Division's General Pool or another Division General Pool in accordance with the provisions of Section 6 herein.

b) It is understood and agreed that an employee assigned to a job outside the Skills and Trades Seniority

Group will not have the privilege of displacing into jobs in the Skills and Trades Seniority Group unless he has qualified as a previous incumbent or is qualified to perform satisfactorily within three (3) working days.

Section 9.

a) In the event that it becomes necessary to reduce the hours of work the Company may, at its discretion, for a period not to exceed four (4) work weeks, reduce the hours worked in accordance with the following:

- 1) Reduce the hours worked to no less than thirty-two (32) hours per week, or
- 2) By mutual agreement, initiate a program of rotating time off not to exceed one (1) work week off in such four (4) work week period.

b) Should it become necessary to operate on a reduced hours schedule beyond the four (4) work week limitation set forth in paragraph (a) herein, the Company agrees to confer with the Chairman of the Factory Grievance Committee concerning the continuation of the reduced schedule of hours. In the event that the Company and the Union cannot agree on the continuation of the existing reduced schedule, the work force within the area affected shall be decreased in order to maintain a forty (40) hour week.

Section 10.

a) In the event that an employee is scheduled to be laid off for lack of work, he may elect to be placed in a layoff status rather than exercise his seniority to displace another employee. An employee making such an election shall have recall rights limited to the job from which he was laid off provided, however, that he may reinstate his recall rights to the General Pool, to his original job or a job to which he exercised displacement rights

by notifying the Factory Personnel Department by certified mail or on a form provided by the Company. In such case, the employee shall be recalled in accordance with his seniority.

b) Any employee duly notified by the Company to return to his own job or to any such job to which he exercised displacement rights must return to such job provided he is the most senior employee having recall rights to that job.

Section 11.

a) In the event that an employee is laid off for lack of work after having exercised all displacement rights available to him under Sections 6, 7 or 8 of this Article, he shall have recall rights as follows:

- 1) The job(s) above the Division General Pool which he either held originally or into which he exercised his displacement rights prior to layoff in the reverse order in which such displacement rights were exercised.
- 2) To the General Pool based on seniority.

b) An active employee who has exercised his displacement rights in lieu of layoff shall have the right to return to his original job or to any jobs into which he displaced in the reverse order in which such displacement(s) occurred in accordance with his seniority.

Section 12.

a) For all purposes other than layoff for lack of work, the seniority rights of the President, Vice President, Recording Secretary, Financial Secretary and Treasurer of the Union, if employees, and Grievance Committeemen shall be exactly the same as the seniority rights of all other employees, except as hereinafter provided.

b) In the case of layoff, and for the sole purpose of maintaining Union representation in grievance areas at

the time of layoff, Grievance Committeemen shall, during their term of office, be required to exercise their displacement rights to jobs within their assigned grievance area. Having exercised all such displacement rights, they shall be retained in the job within their assigned grievance area into which they have finally displaced.

c) In the event of layoff, the President, Vice President, Recording Secretary, Financial Secretary and Treasurer shall, during their term of office, be required to exercise all their displacement rights within their assigned division. Having exercised such displacement rights, they shall be retained in the job within their division into which they have finally displaced.

Section 13.

a) Jobs included in Division General Pools, Division Seniority Groups and the Skills and Trades Seniority Group are set forth in Appendix B and made a part hereof.

b) Newly established or changed jobs shall be assigned to an appropriate seniority group at the time they become effective and such assignment shall be indicated on the job description sheet provided the Union in accordance with Article XIV, Section 2. Employees and the Union shall have the right to grieve, through arbitration, the assignment of jobs to seniority groups in accordance with the grievance procedure.

Section 14. Temporary layoffs may be made where regular work assignments are disrupted because of equipment breakdown, shortage of materials, fire or causes of like nature. Such temporary layoffs may be made by the Company irrespective of any provisions of this Agreement but shall not exceed five (5) working days. In such cases, the Company, will, if operations permit, reassign

employees to other jobs then available during such period up to but not exceeding five (5) working days.

Section 15.

a) If any employee of the Company is classified in a supervisory position on the effective date of this Agreement so as to exclude him from the coverage of this Agreement and is thereafter transferred to a position within the coverage of this Agreement, his seniority shall include all time previously worked in the bargaining unit plus fifty per cent (50%) of all time classified as a supervisor.

b) Any employee of the Company who is transferred to a supervisory position subsequent to the effective date of this Agreement so as to exclude him from the coverage of this Agreement shall be granted a one (1) year period from the date of such transfer to a supervisory position during which he may return to a position within the coverage of this Agreement with the full amount of seniority accumulated.

ARTICLE XI JOB POSTING

Section 1.

a) In the event that a permanent job vacancy occurs within the bargaining unit, the Company agrees to post notice of such vacancy in conspicuous locations at each facility where bargaining unit employees are employed, for a period of three (3) consecutive working days, during which period applications for the posted vacancy will be accepted from any bargaining unit employee within the Company.

ARTICLE XVII WAGES

Section 1. On March 25, 1973, existing numerical pay grade designations will be reversed to reflect progression from the lowest to the highest pay grade by the numerical sequence of numbers 1 through 12.

Section 2.

a) On March 25, 1973, the base hourly rate schedule will be increased in accordance with the following:

Pay Grade	Increase	Pay Grade	Increase
1	30¢	7	36¢
2	31¢	8	37¢
3	32¢	9	38¢
4	33¢	10	39¢
5	34¢	11	40¢
6	35¢	12	41¢

b) Accordingly, the base hourly wage rates of all employees covered by this Agreement, except as hereinafter provided, will be increased in accordance with subsection (a) herein.

c) The pay grades with the applicable base hourly rate for each pay grade are set forth in Appendix C, Section 1, annexed hereto and made a part thereof.

d) All employees covered by this Agreement whose base hourly rates are currently at or below job rate will be increased to the new job rate of their applicable pay grade as set forth in Appendix C, Section 1.

e) All daywork employees covered by this Agreement whose base hourly rates are currently above job rate will be increased in accordance with subsections (a) and (b) herein less an amount equal to the increase in the incre-

ment for their applicable pay grade, but in no such case to an amount less than the new job rate.

f) All incentive employees covered by this Agreement whose current hourly base rate plus sidecar is above job rate will be increased in accordance with subsections (a) and (b) herein, except that such sidecars will be adjusted downward by an amount equal to the increase in the increment for their applicable pay grade.

g) All incentive employees who have not been installed under the standard hour plan will receive an additional cent-per-hour increase in accordance with their applicable pay grade as set forth in subsection (a) herein to be applied independently to each hour worked; except, however, that when such employees are installed under the standard hour plan, any resulting sidecar shall be reduced at the time of installation by the amount of the increase in the increment.

Section 3.

a) On March 25, 1973, a new Craft and Trade base hourly rate schedule will be established, the highest grade of which shall apply to Ornamental Die Sinkers. All other Craft and Trade pay grades will correlate with pay grades 12, 11, 10, 9 and 8 of the base hourly rate schedule set forth in Appendix C, Section 1, except that each such grade shall be increased by an additional fifteen cents per hour (15¢/hour) over and above the increases set forth for such pay grades in Section 2 (a) of this Article.

b) The Craft and Trade pay grades with the applicable base hourly rate for each pay grade are set forth in Appendix C, Section 2, annexed hereto and made a part thereof.

c) Jobs to be included under the new Craft and Trade rate schedule together with their respective pay grade placement are set forth in Appendix C, Section 3.

d) All employees classified on jobs set forth in Appendix C, Section 3, whose base hourly rates are currently at or below the new job rate of the Craft and Trade base hourly rate schedule will be raised to the new job rate of such schedule, effective March 25, 1973.

e) All employees classified on jobs set forth in Appendix C, Section 3, whose base hourly rates are currently above the old job rate will be increased in accordance with the provisions of Section 3 (a) of this Article less an amount equal to the increase in the increment for their applicable pay grade, effective March 25, 1973.

Section 4.

a) On March 25, 1974, the base hourly rate schedule will be increased in accordance with the following:

Pay Grade	Increase	Pay Grade	Increase
1	20¢	7	26¢
2	21¢	8	27¢
3	22¢	9	28¢
4	23¢	10	29¢
5	24¢	11	30¢
6	25¢	12	31¢

b) On March 25, 1974, the Craft and Trade base hourly rate schedule will be increased in accordance with the following:

Pay Grade	Increase	Pay Grade	Increase
T-1	27¢	T-4	30¢
T-2	28¢	T-5	31¢
T-3	29¢	T-6	32¢

c) Accordingly, the base hourly rates of all employees covered by this Agreement, except as hereinafter provided, will be increased in accordance with subsection (a) or (b) herein.

d) The pay grades with the applicable base hourly rate for each pay grade are set forth in Appendix C, Section 4. Craft and Trade pay grades with the applicable base hourly rate for each pay grade are set forth in Appendix C, Section 5.

e) All employees whose base hourly rates are currently at job rate will be increased to the new job rate as set forth in Appendix C, Section 4 or 5, as appropriate, except as hereinafter provided.

f) All daywork employees whose base hourly rates are currently above job rate will be increased in accordance with subsection (c) herein less an amount equal to the increase in the increment for their applicable pay grade, but in no such case to an amount less than the new job rate.

g) All incentive employees covered by this Agreement whose current hourly base rate plus sidecar is above job rate will be increased in accordance with subsection (c) herein except that such sidecars will be adjusted downward by an amount equal to the increase in the increment for their applicable pay grade.

h) All incentive employees who have not been installed under the standard hour plan will receive an additional cent-per-hour increase in accordance with their applicable pay grade as set forth in subsection (a) herein to be applied independently to each hour worked; except, however, that when such employees are installed under the standard hour plan, any resulting sidecar shall be reduced at the time of installation by the amount of the increase in the increment.

i) In addition to the provisions of subsections (f) and (g) herein, red circle and sidecar employees will receive two-hundred dollars (\$200) as compensation for a downward revision of their red circle/sidecar protection by ten cents per hour (10¢/hr.). Earnings protection will remain at the job rate and in those cases where a sidecar/red circle is less than 10 cents per hour, the lump sum payment will be the red circle/sidecar in cents-per-hour divided by ten (10) times \$200.

Section 5.

a) Effective March 25, 1973, the inventory rate will be \$3.50 per hour or the employee's hourly base rate, whichever is greater.

b) Effective March 25, 1974, the inventory rate will be increased to \$3.70 per hour or the employee's hourly base rate, whichever is the greater.

Section 6.

a) A twenty (20) hour bonus will be paid to all eligible employees, payable within thirty (30) days of March 25, 1973.

b) A ten (10) hour bonus will be paid to all eligible employees on the first anniversary of this Agreement.

ARTICLE XVIII SEVERANCE ALLOWANCE

Section 1. Where, in the sole judgment of the Company, it decides to close permanently a department of a plant or a substantial portion thereof and as a result, an employee's job is eliminated permanently, either directly or indirectly, such employee shall be entitled to a severance allowance in accordance with and subject to the provisions set forth hereinafter,

provided, however, that employees will not be entitled to a severance allowance under this Article due to their being laid off as the result of technological changes or automation or causes beyond the control of the Company.

Section 2. An employee shall be eligible for a severance allowance provided he meets all of the conditions set forth herein:

a) He shall have three (3) or more years of continuous service computed in accordance with the seniority provisions set forth in Article X of this Agreement.

b) He is in the employ of the Company in a full-time status at the time his job is permanently eliminated.

c) He remains an active employee until the time specified by the Company.

d) He has exhausted all displacement rights available to him under the seniority provisions of Article X of this Agreement except, however, that no employee shall be required to displace into a job more than three (3) pay grades below his original job nor be required to displace into a job more than one (1) pay grade below his original job if it results in his displacement into the General Pool.

Section 3.

a) An eligible employee shall receive severance allowance based upon the following weeks for the corresponding continuous service:

Continuous Service	Weeks of Severance Allowance
3 years but less than 5 years	9
5 years but less than 7 years	11
7 years but less than 10 years	12
10 years or more	13

b) A week's severance allowance shall be determined in accordance with the provisions for the calculation of vacation allowance as set forth in Article XXI, Vacations.

Section 3. Payment for such absences shall not be made unless the employee claiming such payment (1) shall have submitted his request for payment promptly following his return to work from such absence, and (2) shall have, upon request, produced verification acceptable to the Company of the death of and relationship of the relative.

ARTICLE XXV SUPERVISORS WORKING

It is understood and agreed that supervisors as defined in Article I, Section 2 shall not perform work on a job normally performed by an employee in the bargaining unit; provided, however, that nothing herein shall be construed to prohibit such supervisors from performing the following types of work:

- Experimental work;
- Demonstration work performed for the purpose of instructing and training employees; and
- Work required of the supervisors by emergency conditions which if not performed might result in interference with operations, bodily injury or loss or damage to material or equipment.

ARTICLE XXVI PENSIONS

The Pension Agreement of March 25, 1973, is incorporated herein and made a part hereof, specifically with reference thereunder being subject to the grievance procedure as set forth in Article IX of this Agreement.

ARTICLE XXVII GROUP INSURANCE

Effective March 25, 1973, current group insurance benefits shall be increased in accordance with the following:

- Life Insurance:
 - Less than 5 years of service: \$4,000
 - 5 years or more of service: \$6,000
- Weekly Disability Income:
 - 66 2/3% of earnings subject to a maximum benefit of \$75.00 per week
 - Benefit duration of 26 weeks
- Comprehensive Major Medical:
 - Lifetime maximum - \$50,000

In all other respects, the provisions of the above plans remain unchanged and eligibility for the increased benefits are subject to the standard practices and provisions required by the insurance carrier.

ARTICLE XXVIII DURATION

Section 1. This Agreement and all its terms and provisions shall become effective March 26, 1973, and, except as provided hereinafter, shall remain in effect until midnight March 25, 1975.

Section 2. All the terms and provisions of Article XXVI, "Pension Agreement", shall remain in effect until midnight, March 25, 1976. The Company agrees to negotiate with the Union with respect to the terms and provisions of said Article XXVI at the time or times and contingent upon the notice or notices specified in Section 1 herein, provided, however, that no such negotiations shall have

the effect of amending, modifying or terminating any of the terms or provisions of said Article XXVI prior to March 25, 1976.

IN WITNESS WHEREOF, the United Steelworkers of America and International Silver Company have executed this Agreement this 30th day of April, 1973.

INTERNATIONAL SILVER COMPANY

s/JOHN B. STEVENS

Chairman, duly authorized

s/WAYNE B. MITTEN, JR.

Vice President-Manufacturing

s KENDALL I. TRENCHARD

Director of Personnel

UNITED STEELWORKERS OF AMERICA

s/I. W. ABEL

International President

s/J. T. MOLONEY

Vice President

s/WALTER J. BURKE

Secretary-Treasurer

s/ROY A. STEVENS

Regional Director, duly authorized

s JOHN A. SARTORI

International Representative

s RAFAEL COLLAZO

President, Local #7770

s/ROBERT L. SPERRY

s/HENRY P. NOVAK

s/DONALD KING

s/HELEN ZELENSKI

s/VITO CONSTANTINOPL

s/ARMANDO J. MOFFA

AMERICAN ARBITRATION ASSOCIATION

In the Matter of the Arbitration between

UNITED STEELWORKERS

- and -

INTERNATIONAL SILVER COMPANY

CASE NUMBER
12 30 1075 73

AWARD OF ARBITRATOR

The undersigned arbitrator, having been designated in accordance with the arbitration agreement entered into by the above-named Parties, and dated March 26, 1973 and having been duly sworn and having duly heard the proofs and allegations of the Parties, AWARDS as follows:

Grievance No. E-73-110 is upheld. Antonio Aresco and other employees similarly situated shall be granted the sidecar payments in question, retroactive to August 17, 1973.

/s/ Lewis M. Gill

Lewis M. Gill, Arbitrator
June 4, 1974

UNITED STEELWORKERS	:	<u>Arbitration</u>
- and -	:	<u>Case Number:</u>
INTERNATIONAL SILVER COMPANY	:	12 30 0175 73

OPINION

This case presents an unusual issue regarding application of a policy regarding red circle or "sidecar" rates. The case was heard in Wallingford, Connecticut on May 8, 1974.

The facts are a little complicated, but essentially not in dispute. The grievant, Antonio Aresco, was laid off in May, 1970, at which time the plant was unorganized. The plant was still unorganized when he was brought back to work in August 1971, and under the Company policy then in effect, he was entered on the records as a new hire. (The policy was that recall rights after lay-off expired after 12 months for those with 5 or more years' service - Aresco's category - and he had been on layoff something over 14 months.)

In the meantime, starting in February 1971, the Company had introduced a new incentive system, converting an informal piece rate system to a standard hour system, with the rates based on an estimated departmental average of the earnings for the year 1970, with the incentive rates designed to yield 25 percent over the departmental base rates. As would be expected, some employees

◇ wound up with earnings lower and some with earnings higher than they had made under the old system. For those whose 1970 earnings had been higher than the average earnings in their department under the new system, the Company instituted a red circle policy of giving them "sidecar" payments to maintain their previous earnings level. However - and herein lies the dispute - these sidecar payments were not granted to employees like Aresco whose recall rights had expired before they had returned to work.

Upon the advent of the Union, this whole subj came up during the negotiations of the first contract, which was signed in March 1973. First of all, it was agreed that recall rights (for those with two or more years of service) would be in effect for two years, as compared to the previous maximum of 12 months for those over five years. This provision was spelled out in Article X, Section 3 of the contract, reading in relevant part as follows:

"Section 3. A break in an employee's continuous service thereby resulting in a loss of seniority shall result from any one of the following circumstances:

* * *

(g) If he had two (2) or more years of continuous service with the Company at the time of layoff for lack of work and such lay-off continues for more than two (2) years."

That having been agreed upon, there was further discussion as to how this new provision would affect employees who, like ◇ Aresco, had lost their accumulated service when they were recalled under the previous policy, but who would have been entitled to keep it under the new policy. There was discussion of various benefits which hinge on length of service, and an oral agreement

was reached on certain matters. For example, it was agreed that the seniority of such employees would be adjusted to include their prior service, and that this full accumulated service would apply to such matters as vacations and pensions. There was also some discussion of sidecar payments, but there is a dispute as to the nature of that discussion.

For the Union, Staff Representative John Sartori testified that he and Personnel Director Kendall Trenchard reached a general agreement that whatever arrangement was worked out as to extending the period for preserving recall rights would be applied retroactively as to all benefits, with only one qualification - that there would be no monetary liability on the Company for any part layoffs or denial of recalls which had taken place under the old policy. He conceded that there was discussion of some aspects of sidecar payments - with the Union unsuccessfully seeking to get a different base year than 1970 used for calculating the averages - but denied that there was any specific discussion of the issue here - how entitlement to sidecar payments would be affected by any agreed change in service credit through extending the period for recall rights. He said he assumed that sidecars would be covered by the general agreement that all benefits would be adjusted in accordance with whatever was done regarding extension of the period for recall rights.

Trenchard, on the other hand, testified that this question as to sidecar payments was discussed, and that he refused to agree to institute those payments for the employees in question because that would involve monetary liability.

Sartori's testimony was more detailed and convincing than Trenchard's, and I conclude that there was not any specific discussion of the precise point at issue here, and that there was a general agreement of the sort described by Sartori (and not specifically denied by Trenchard). That general agreement, I find, was to the effect that whatever agreement on extending recall rights was reached, would be applied to all benefits dependent on length of service, subject only to the qualification that there would be no monetary liability for past actions taken under the old policy. That qualification, described by one of the Company witnesses as an undertaking that "no back pay would be sought by the Union", seems logically to cover liability for layoffs or denial of recalls under the old policy (as the Union concedes), but whether it logically covers sidecar payments is another matter entirely. This is not a claim for back pay for denial of the sidecar payments during the 1971-73 period, before the contract was signed - it is rather a claim for application of the sidecar policy to Aresco and others similarly situated after the contract took effect. The basic question which emerges, as I view the case, is whether the restoration of Aresco's original date of hire did make him entitled to the sidecar payments, under the established policy on such payments.^{1/}

1/ The Company advanced an arbitrability argument, saying that the grievance should be dismissed under Section 2 (b) of Article IX, which excludes from arbitration any "grievance, dispute, misunderstanding or difference between the parties which occurs prior to the execution of this Agreement." I find no merit in that connection - this dispute did not arise until after the Agreement was executed, although of course it involved the status of Aresco and the others under the Agreement, because of their earlier layoffs and recalls.

I am persuaded that the answer to that question should be in the affirmative. The policy on sidecar payments is essentially a red circle policy, maintaining the earnings level for present employees, but not extending those higher rates (or payments) to newly hired employees who did not have any higher level of earnings to protect, or who, if they had worked in 1970 and established such higher levels, had been laid off since for such a long period as to lose their recall rights and were therefore in the category of new hires when they returned. Up until the contract was signed in 1973, Aresco and others similarly situated were in this last category, and the denial of sidecar payments to them was proper under the then-existing policy. But once the contract was signed, they were removed from the category of new hires, and were credited with continuous service from their original date of hire. Under the established policy as to sidecar payments, I believe that entitled them to the payments.

There remains an issue as to the request in the grievance for payment of these sidecars "retroactively to official date of agreement to restore our seniority". That apparently means the date of signing of the contract in March 1973, although it could be taken to mean the date of the subsequent oral agreement to give Aresco and the others their accumulated service. (That latter date is not pinpointed by the evidence.) I believe the proper retro-active date is indicated by Section 3 of Article IX, providing that "grievances involving wages shall be retroactive to the occurrence or non-occurrence of the event giving rise to the current grievance". In this instance, that appears to have been

on August 17, 1973, when the Company issued a revised seniority listing showing which employees were entitled to sidecars (Union Exhibit 1). The Union spokesman stated that this was the first official notice the Union had that their claim for these sidecar payments was being rejected. I accept his statement on that point, and conclude that August 17th should therefore be the retroactive date.

/s/ Lewis M. Gill
Lewis M. Gill, Arbitrator

June 4, 1974

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LAYOFF AND RE-EMPLOYMENT POLICY AND PROCEDURES

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Layoff and Re-employment Policy	Date Issued	Authorized JBB	Replaces 12/22/70	Prepared By ←	General Instruction ERI.7	Section I	Page 1	Audit
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INTRODUCTION

A. EMPLOYEE COVERAGE

This policy applies to all hourly-rated production and maintenance employees of International Silver Company at its Meriden/Wallingford facilities.

B. GENERAL STATEMENT OF POLICY

It is the policy of International Silver Company to provide steady employment for all its employees. However, should it occur that business conditions warrant a reduction in the size of the work force, such reductions will be effected in accordance with employees' seniority within their assigned department and job code.

Further, as part of its general employment policy, the Company will make every reasonable effort to review and consider for re-employment to departments and jobs other than their own all employees on layoff status prior to employing new employees, regardless of division, department or job code, and solely on the basis of fitness, ability and supervision's estimate of the employee's likelihood of success.

C. DEFINITIONS OF TERMS

A number of special terms are used in the procedures which follow and in order to understand the meaning and intent of these procedures, it is essential that there be a clear understanding of the definitions of these terms:

1. Layoff - Layoff is the termination of an employee for reasons of lack of work and the use of the term is restricted strictly to terminations for that reason.
2. Indefinite Layoff - An indefinite layoff is the termination of an employee for lack of work when it is uncertain whether or when he will be returned to work.
3. Temporary Layoff - A temporary layoff is the termination* of an employee for lack of work for a specified period of time, not in excess of two (2) work weeks and where the employee's date of return to work is known and specified.

*(Note: Although the word "termination" is used here, as a matter of administrative practice, employees who are laid-off on a temporary basis are not removed from the payroll.)

4. Emergency Layoff - An emergency layoff is the termination* of an employee for a period of not more than two (2) work weeks for lack of work due to an occurrence over which the Company has no control, i.e., storms, fire, flood, loss of power, etc.

*(Note: As in paragraph C, (3) above, the word termination is used although actual separation from the payroll does not occur.)

Layoff and Re-employment Policy	Date Issued	Authorized	Replaces	Prepared By	General Instruction	Section	Page	Audit
		<i>[Signature]</i>	12/22/70	<i>[Signature]</i>	ER1.7	I	2	

5. Re-employment Privilege - A re-employment privilege is the privilege a laid-off employee has of being re-employed with full adjusted seniority in the cost center and job code from which he was laid-off in accordance with his seniority.
 6. Seniority - Seniority is the precise number of years, months and days of uninterrupted service with the Company regardless of job assignments.
 7. Adjusted Seniority - Adjusted seniority is the addition of the precise number of days an employee has been on indefinite layoff status to his seniority date at time of layoff, such adjustment being made at the time of his return to work.
 8. Probationary Period - A probationary period is the first consecutive ninety (90) days of employment with the Company.
(Absence for any reason during this period may serve as a basis for extending the 90-day period by the number of days absent.)
 9. Trial Period - A trial period is that thirty (30) day period* during which an employee who has been transferred to a different cost center or job code in lieu of layoff, or who has been re-employed with seniority to a different job from which he was laid-off, retains his layoff and/or re-employment privileges in his former cost center and job code.
- *(This 30-day period may be extended to 60 days under extenuating circumstances. See Section III, paragraph A, 2.)
10. Fitness and Ability - Fitness and ability are the physical qualifications and experience and/or training required to perform a job as determined by supervision. Fitness and ability are prerequisites to an employee's being transferred in lieu of layoff or re-employed in another job.

Layoff and Re-employment Policy	Date Issued	Authorized	Replaces	Prepared By	General Instruction	Section	Page	Audit
		<i>MB</i>	12/22/70	<i>↙</i>	ERI.7	II	I	

PROCEDURES FOR CONDUCTING A LAYOFF

A. SENIORITY AS THE BASIS FOR LAYOFF

In all indefinite layoffs, employees will be laid-off in strict accordance with their seniority within their existing cost center and job code, regardless of shift. Such layoffs will be carried out in inverse seniority order with the least senior employee being laid-off first. Exceptions to the above are as follows:

1. Setup and Lead Personnel: If it becomes necessary to layoff lead or setup personnel (i.e., employees classified in major occupational codes 00XX or 01XX respectively), such employees will be included in the seniority grouping of the operators for whom they setup or whom they lead and thereby become subject to the layoff procedures of that group.
2. Probationary Employees: New employees who are still within their 90-day probationary period will not acquire seniority privileges. Such employees, having no seniority status, will be laid-off from their assigned cost center and job code prior to the laying-off of any other employees in that cost center and job code.
3. Part-Time/Temporary Employees: No regular employee with seniority status shall be laid-off for lack of work until all part-time and temporary employees in that cost center and job code have been laid-off.
4. Apprentices: Bona fide apprentices who are registered in the State Apprenticeship Program may be laid-off without regard to seniority.
5. Employees with Equal Seniority: In those cases where two (2) or more employees have the same seniority date and the reduction in force requires selecting one (or more) but not all for layoff, those employees selected for retention will be so selected on the basis of fitness and ability.

B. TEMPORARY LAYOFFS

Inasmuch as a temporary layoff is for a specified duration not to exceed two (2) work weeks, employees selected for such temporary layoff may be so selected without strict regard for seniority. However, supervision should give as much consideration to seniority as the operating needs of the cost center will allow.

C. EMERGENCY LAYOFFS

Inasmuch as an emergency layoff results from causes beyond the control of the Company and since it may not exceed two (2) calendar weeks in duration, employees may be laid-off without regard for seniority. However, as in the case of temporary layoffs every consideration should be given to seniority consistent with the operating needs of the cost center.

Layoff and Re-employment Policy	Date Issued	Authorized	Replaces	Prepared By	General Instruction	Section	Page	Audit
		<i>[Signature]</i>	12/22/70	<i>[Signature]</i>	ER1.7	II	2	

D. LAYOFF OF NON-WORKING EMPLOYEES

In the event that a layoff occurs in a job code and cost center which, by virtue of seniority, causes a non-working employee (i.e., absent due to illness, leave of absence, vacation, etc.) to be affected by the layoff, that absent employee will be laid-off and all necessary paperwork processed along with the layoff of all other employees.

Notification to such absent employees of their layoff "in absentia" shall be made by letter except in unusual cases where reason would indicate delaying such notification, such as serious illness where it is established that the employee is incapacitated or in critical condition.

The effective date of the layoff of absent employees shall be the date the layoff actually occurs and not the employee's last day worked.

Layoff and Re-employment Policy	Date Issued	Authorized	Replaces	Prepared By	General Instruction	Section	Page	Audit
			12/22/70		ER1.7	III	1	

CHANGING EMPLOYEE STATUS IN LIEU OF LAYOFF

A. TRANSFERS IN LIEU OF LAYOFF

Having established the names of employees to be laid-off in accordance with Section V, B, the Factory Personnel Manager will, in conjunction with the Central Employment Office, review the complete list of open requisitions for all factories within International Silver Company to determine which of those employees to be laid-off can be considered for transfer to fill existing vacancies in lieu of being laid-off.

This review will be based upon a careful evaluation and correlation of job requirements and the qualifications of employees to be laid-off.

The matching of employees scheduled for layoff with open requisitions will be accomplished on the basis of the employees fitness and ability and where fitness and ability are equal, seniority will prevail.

1. Refusal to Accept Transfer in Lieu of Layoff:

If an employee who is scheduled for layoff is offered a transfer in lieu of layoff and refuses for any of the following reasons, he will revert to layoff status in his original cost center and job code:

- a) Unacceptable change in shift
- b) Reduction in earnings or earnings potential in excess of a one pay grade reduction
- c) Lack of transportation

If the employee refuses the transfer for any other reason than those cited above, he will be terminated for refusal to accept available work.

2. Trial Period Following Transfer:

Should an employee who is scheduled for layoff accept a transfer in lieu of layoff to a different job and subsequently fail to perform satisfactorily within thirty (30) calendar days from the date of transfer and therefore becomes subject to termination, he will revert to layoff status in his former factory, department and job code.

Failure to perform satisfactorily subsequent to thirty (30) days after transfer will result in his being terminated, thereby forfeiting all re-employment privileges.

Should an employee accept a transfer to another factory, cost center or job code in lieu of layoff, he will be considered on trial for 30 calendar days in that new factory, cost center or job code. (This 30-day trial period may be extended to 60 calendar days by the mutual agreement of the company and the employee.) If, during the trial period, a layoff should occur in the

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new factory, department or cost center, he will be treated as any probationary employee and will be laid-off prior to the laying-off of any regular employee in that department having seniority status (See Section II, paragraph A, (2),) and shall revert to layoff status in his former cost center and job.

If the transferred employee resigns his new job voluntarily during the trial period for reasons other than change in shift, reduction in earnings or transportation, (See Section III, paragraph A, 1) he will forfeit all re-employment privileges. Voluntary resignation after the 30-day trial period for any reason will result in forfeiture of all re-employment privileges.

B. DEMOTION OF SUPERVISOR IN LIEU OF LAYOFF

Should a reduction in the work force necessitate a reduction in the factory supervisory force, resulting in a supervisor's being transferred into the hourly work force, the supervisor so affected will carry with him to the new job all years of credited service to his new job immediately upon transfer.

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RE-EMPLOYMENT FROM LAYOFF STATUS

A. SENIORITY AS BASIS FOR RE-EMPLOYMENT

If business conditions warrant the filling of jobs in a cost center where there are employees on layoff status with re-employment privileges, those employees will be re-employed in strict order of seniority by job code prior to any outside hiring in that cost center and job code.

B. DURATION OF RE-EMPLOYMENT PRIVILEGES

Employees laid-off for lack of work will retain their re-employment privileges in accordance with the following:

<u>Company Service</u>	<u>Duration of Re-employment Privileges</u>
Under 90 days	None
Over 90 days but less than 5 years	6 months
5 years or over	12 months

C. EXPIRATION OF RE-EMPLOYMENT PRIVILEGES

Should an employee remain on layoff status beyond the re-employment privilege period as established by his years of service, his re-employment privileges will expire automatically and without notification.

D. TRANSFERS INTO A LAYOFF COST CENTER

The assignment of active employees to or within a cost center or job from which employees have been laid-off and still retain re-employment privileges is permitted regardless of job code or cost center provided such assignments are temporary and do not extend beyond 60 days.

E. RE-EMPLOYMENT PRIVILEGES OF EMPLOYEES TRANSFERRED WITHIN A DIVISION IN LIEU OF LAYOFF

Employees transferred to other cost centers within the same division of the Company in lieu of layoff shall have no re-employment privileges to their former job and cost center after the expiration of the thirty (30) day trial period (See Section III, A, 2).

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Should an employee, transferred to a different cost center and/or job within the same division while in the 30-day trial period, refuse the opportunity to return to his former job and cost center, he will forfeit all re-employment privileges to that job henceforth.

F. CONDITIONS UNDER WHICH LAID-OFF EMPLOYEES MAY BE EMPLOYED BY ANOTHER DIVISION OR SUBSIDIARY AND SUBSEQUENTLY RE-EMPLOYED WITH SENIORITY

When an employee with re-employment privileges in one division of International Silver Company or subsidiary of Insilco in the Meriden/Hallingford area (specifically, MRM Industries and Eyelet Specialty Company) is employed by another division or area subsidiary, the following will apply:

1. Seniorty in Different Subsidiary

If a laid-off employee is employed by a subsidiary other than the one from which he was laid-off, he will be employed with adjusted credited service only for the purpose of determining eligibility for fringe benefits, i.e., vacation allowance, group insurance, pension, holiday pay, bereavement pay, military service pay and jury duty pay. Job seniorty will date from the effective date of employment.

2. Seniorty in Different Division

If a laid-off employee is re-employed by a division other than the one from which he was laid-off, he will be re-employed with adjusted job seniorty as well as adjusted credited service for determining eligibility for fringe benefits.

3. Retention of Re-employment Privileges When Employed by Different Subsidiary

If a laid-off employee is employed by a subsidiary other than the one from which he was laid-off, he will retain his re-employment privileges at the subsidiary from which he was laid-off --

--Unless he continues to be actively employed beyond the stated probationary period for new employees at the subsidiary where employed.

--and--

--Provided he does not leave the employ of that subsidiary voluntarily.

4. Retention of Re-employment Privileges When Employed by Different Division

(Same as Re-Employment Privileges of Employees Transferred within a Division in Lieu of Layoff. See Paragraph E above.)

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When an employee whose re-employment privileges have expired in one division or subsidiary is employed by another division or subsidiary, he will be employed as a new employee, except for credited service for pension considerations as specified in the pension plan.

Any laid-off employee may refuse employment with another division or subsidiary without jeopardizing his re-employment privileges at the division or subsidiary from which he was laid-off.

G. ADJUSTMENT OF SENIORITY FOLLOWING RE-EMPLOYMENT

If a laid-off employee is re-employed while retaining re-employment privileges, his seniority date will be adjusted by the precise number of calendar days he remained off the payroll in a layoff status (See Section V, paragraph F, for method of adjustment).

H. REFUSAL TO ACCEPT OFFER OF RE-EMPLOYMENT AFTER LAYOFF

If a laid-off employee is offered re-employment in his former cost center and job and shift and refuses such re-employment, he will thereby forfeit all re-employment privileges henceforth.

I. INABILITY TO REPORT UPON OFFER OF RE-EMPLOYMENT

If a laid-off employee having re-employment privileges is offered re-employment to his former job and cost center and is either unable or fails to report to such job on the specified date, he will forfeit all re-employment privileges henceforth unless such failure to report is demonstrated to be due to:

- personal illness
- death in the immediate family

In such demonstrated circumstances, he will retain re-employment privileges to the next available opening in that job but under no circumstances will such an employee be permitted to claim rights to jobs filled during that period during which he was unable to report for work.

J. EMPLOYEES RETURNING FROM LONG-TERM DISABILITY OR LEAVE OF ABSENCE AND THEIR RELATIONSHIP TO RE-EMPLOYMENT PRIVILEGED EMPLOYEES

Employees who have been separated from the payroll and placed in a long-term disability or leave of absence status and who subsequently become available for return to work to a job and cost center where there are laid-off employees who retain re-employment privileges, shall be placed among those employees having re-employment privileges in accordance with their seniority.

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Under no circumstances shall an employee returning from long-term disability or leave of absence be permitted to be re-employed and thereby cause the layoff of an active employee, regardless of their relative seniorities.

K. EMPLOYEES RETURNING FROM MILITARY SERVICE AND THEIR RELATIONSHIP TO RE-EMPLOYMENT PRIVILEGED EMPLOYEES

Employees who have been terminated to enter military service and who become available for re-employment under the terms of the Armed Forces Reserve Act in a job and cost center where there are laid-off employees who retain re-employment privileges shall be either returned to employment if their seniority date is earlier than that of the least senior active employee in that job and cost center or placed among those re-employment privileged employees in accordance with his relative seniority status.

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ADMINISTRATIVE PROCEDURES

A. NOTICE OF LAYOFF TO EMPLOYEES

Employees scheduled for layoff must be given a minimum of twenty-four (24) hours notice of their impending layoff. If, therefore, an employee is scheduled to be laid-off at the end of his assigned shift on Friday, he must be so informed during his shift on Thursday.

B. IDENTIFICATION OF EMPLOYEES TO BE LAID OFF

Employees assigned to cost centers and job codes to be affected by a reduction in work force whose seniority is insufficient to allow them to remain employed will be identified in accordance with the following:

- The Factory Manager will notify the Factory Personnel Manager of the impending layoff at the earliest possible date, but no later than one work week in advance of the commencement of the layoff.
- The Factory Personnel Manager will obtain from the Factory Manager the planned reduction in force in terms of cost centers, job codes and numbers of people affected.
- The Factory Personnel Manager will refer to the seniority listing (by cost center and by job code) and will insure that all layoffs are carried out in strict accordance with the seniority provisions of this policy by identifying from the seniority listing those employees having the least amount of seniority in the cost center and job code.

C. RE-EMPLOYMENT OF LAID OFF EMPLOYEES

The Factory Personnel Manager has the sole responsibility for insuring that laid-off employees are returned to employment from layoff in accordance with this procedure. In this regard, the Factory Personnel Manager will be required to:

- Establish and maintain accurate records of employees on layoff by cost center and job code together with seniority date at time of layoff.
- Maintain documentation files of all actions taken with respect to attempts to re-employ employees with re-employment privileges such as job refusals, undelivered registered letters, untraceable changes of address, failure to report as scheduled, etc., in order to substantiate failures to re-employ.

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D. OFFERS OF RE-EMPLOYMENT TO LAID OFF EMPLOYEES

Offers of re-employment after layoff will be carried out by the Factory Personnel Manager.

They will be effected in one of three ways: 1) by telephone; 2) by registered mail; 3) by telegram.

Telephone

The Factory Personnel Manager will telephone employees to be re-employed in the order described above. He will notify the employee of the availability of his old job and inform him that he is expected to report for work within three (3) working days of the date of the call (The Factory Personnel Manager will specify the date) or on the date specified, if later than three (3) days from the date of the call, or he will forfeit all re-employment privileges.

The Factory Personnel Manager will maintain appropriate records of all calls in order to support revocation of re-employment privileges where necessary. If an employee's re-employment privileges are revoked because of failure to report for work within the time limits above, appropriate data will be placed in the employee's personal file in support of the action taken.

The Factory Personnel Manager should insure that he speaks with the employee himself. Messages left with relatives or others are not sufficient to enforce the revocation of re-employment privileges.

Registered Mail

If it is not possible to reach a laid off employee by telephone, the Factory Personnel Manager will send a registered letter - RETURN RECEIPT REQUESTED - to the employee's last known address indicating the job opening, the date the employee is expected to report and the fact that failure to do so will result in forfeiture of re-employment privileges as stated in the previous paragraph.

Failure to report within three (3) working days of the date of receipt of the letter as indicated on the RETURN RECEIPT or on the date specified, if later will result in revocation of the re-employment privileges.

Telegram

In unusual circumstances, it may be necessary to utilize telegrams as a means of notification. In all cases, verification of delivery of message will be obtained and the conditions of re-employment detailed as above.

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E. EMPLOYEE RESPONSIBILITY TO MAINTAIN CURRENT STATUS OF HOME ADDRESS AND TELEPHONE NUMBER

It is the responsibility of the employee on layoff to notify the General Employment Office in writing of any changes of address or telephone number while on layoff.

Attempts to reach laid-off employees shall not extend beyond the employee's last address on record.

F. METHOD OF ADJUSTING SENIORITY AT TIME OF RE-EMPLOYMENT

When a laid-off employee returns to work under the re-employment provisions of this policy, his seniority date will be adjusted (see Section IV, paragraph G) in the following manner:

- The precise number of calendar days on layoff will be added to the employee's seniority date at time of layoff.
- In order to determine the calendar days on layoff status, all calendar days, including Saturdays, Sundays and holidays, will be counted beginning with the first day following the dates of layoff and up to and including the day prior to the employee's entry onto the payroll.

Example:

Seniority date at time of layoff:	January 1, 1940
Date of Layoff:	December 1, 1970
Date of Recall:	December 19, 1970
Adjusted Seniority Date:	January 18, 1940

- If the returning employee had been laid-off while in a non-working status (i.e., illness, leave of absence, vacation, etc.) the adjustment of the seniority date will be made from the effective date of the layoff as indicated on the termination form and not the last day worked.

G. NOTIFICATION TO STATE UNEMPLOYMENT OFFICE OF REFUSALS TO ACCEPT OFFERS OF RE-EMPLOYMENT

In the event that an employee on layoff refuses an offer of re-employment to his former job and shift, the Factory Personnel Manager will, that same day, notify by mail, the appropriate (based on employee's home address) local State Unemployment Compensation Office of the employee's refusal.

The letter must include:

- employee's full name
- social security number
- last known home address
- the job to which recalled
- the rate of pay offered

Wage Administration Policies and Procedures

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HOURLY (FACTORY) WAGE STRUCTURE

A. THE WAGE SCALE*

International Silver Company's wage scale is a schedule of base hourly rates consisting of twelve (12) pay grades that have application to all day work and incentive jobs throughout the Company.

The wage scale consists of the following components:

- Pay Grades
- Rate Ranges
- Hiring Rates
- Incremental Rate Steps
- Job Rates

1. PAY GRADES

There are twelve (12) pay grades. They are numbered (1 through 12) in rank order according to their relative value. Therefore, the pay grades progress from the highest pay grade of (1) to the lowest pay grade of (12) and in total they represent the relative levels of skill, responsibility and effort inherent in all hourly-rated factory jobs throughout the Company.

2. RATE RANGES

Associated with each pay grade is a range of hourly base rates progressing from a minimum or hiring rate to a job rate for that pay grade.

3. HIRING RATES

The hiring rate or minimum rate is the lowest rate in the rate range established for each pay grade. It is the rate at which new employees will be employed under normal conditions.

Whenever, in the considered opinion of management, a job applicant in the skilled trades possesses experience or skills which warrant a higher hiring rate, such applicants may be employed at any incremental rate step up to and including the job rate. (See Section IV, A, 3)

- * See Appendix C - Hourly (Factory) Wage Scale

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4. INCREMENTAL RATE STEPS

In each pay grade there is a series of incremental rate steps between the minimum or hiring rate and the job rate. These rate steps represent the progressively higher rates paid employees who perform satisfactorily on the job for a specified period of time.

5. JOB RATE

The Job Rate is the upper limit of the rate range for each pay grade. It is that rate paid an employee who has demonstrated the capability to perform all the requirements of the job to which he is assigned.

6. TRANSITION OF THE WAGE SCALE

General:

The wage scale will evolve through three (3) distinct phases (see Exhibits C, C₁, and C₂) in its adjustment from the existing (pre-job evaluation) rate structure to a structure which is properly aligned with the results of the job evaluation plan.

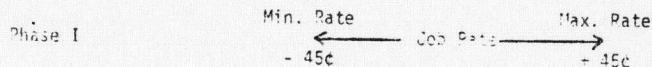
This three phase transition is designed to span a three-year period and to provide for the immediate elimination of all existing "below minimum" rates and the gradual but systematic elimination of existing excessive rates.

Phase Periods:

Each of the three phases will be of one year duration beginning with the date of installation.

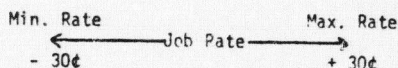
Rate Ranges:

The rate range for each pay grade in each succeeding phase will change (become narrower). During Phase I the rate range will extend from a minimum rate of 45¢ below the job rate to 45¢ above the job rate. During Phase II the rate range for each grade will be reduced and will extend from a minimum rate of 30¢ below the job rate to 30¢ above the job rate. In the last phase, Phase III, the range will extend from a minimum of 15¢ below job rate to a maximum of 15¢ above job rate. This "telescoping" effect on the rate ranges is illustrated below:

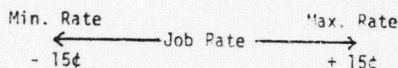


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Phase II



Phase III



Rate Positions:

During each phase of the three successive phases the number of rate positions or steps will necessarily be reduced as the span of the ranges are reduced. Therefore, in Phase I there will be nine (9) 5¢ rate positions between the minimum of the range and the job rate in each pay grade ($45 \div 9 = 5\text{¢}$ rate steps). In Phase II, there will be six (6) 5¢ rate steps ($30\text{¢} \div 6 = 5\text{¢}$). In Phase III, there will be three (3) 5¢ rate steps ($15\text{¢} \div 3 = 5\text{¢}$).

Rates Below Minimum:

Day work rates below the minimum of the pay grade for the job will be raised to the minimum rate at time of installation and will begin automatic progression to Job Rate (see Section IV). Likewise, day work rates between minimum rate and Job Rate will progress automatically to Job Rate. At the initial move (at the end of the first 4 months) individuals not at an even 5¢ step move a full step plus any added increment to get to a full step.

Incentive rates will be adjusted in accordance with the Incentive Plan as it is installed.

Rates Above Job Rate:

Day work rates above the Job Rate of the pay grade for the job will be considered "red circle" rates and will be "frozen" until their elimination by the evolution of the wage scale or other appropriate personnel action. In addition, special treatment of these rates will be directed to "red circle" rates in the event of general increases in accordance with the following:

Rates higher than Job Rate but less than a specified amount above the Job Rate receive one-half the general increase.

Rates above the specified amount above the Job Rate receive no general increase.

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The specified amount above the Job Rate is 45¢ for the first year after installation of the new pay system, 30¢ for the second year and 15¢ for the third year.

Incentive work jobs whose incumbents have average earnings above Job Rate will be afforded a "Side Car" (see Appendix) and will be subject to the same general increase restrictions as day work jobs.

(Note: The treatment of side cars and rates above Job Rate in specific situations is discussed in detail in Section IV.)

B. METHODS OF WAGE DETERMINATION

All hourly factory jobs fall into one of two general categories:

- Jobs for which no incentive opportunity has been developed (day work)
- Jobs for which incentive opportunity has been established and implemented (incentive work)

1. JOBS WITHOUT INCENTIVE OPPORTUNITY (DAY WORK)

Those jobs for which no engineered standards have been established are referred to as "day work" jobs. Wages for such jobs are determined by multiplying the established hourly rate for the job by the number of clock hours performed on the job.

2. JOBS WITH INCENTIVE OPPORTUNITY

Those jobs for which engineered standards have been established are referred to as "incentive" jobs in that the opportunity exists to earn over and above the base rate for that job by above standard performance.

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WAGE ADMINISTRATION OPERATING POLICIES & PROCEDURES

A. EMPLOYEE PLACEMENT IN THE RATE RANGE

General:

The Job Evaluation Plan places each hourly (factory) job in the Company in a pay grade and thereby establishes for each job a range of rates to be paid for these jobs. Because there is a range of hourly base rates associated with each pay grade, the placement of an individual employee at some rate position within the range for his assigned job is, necessarily, a matter of some supervisory judgment. In order to insure consistency and fairness of administration, the following administrative procedures will apply:

There are nine (9) possible personnel actions which management can take which will have a direct effect upon the rate paid an employee:

- (1) General Increases
- (2) Automatic Progression
- (3) New Hires
- (4) Rehires without Seniority
- (5) Rehires with Seniority
- (6) Transfers
- (7) Promotions
- (8) Demotions
- (9) Change of Status Between Incentive and Day Work Jobs

Each one of these nine personnel actions are treated in detail below.

1. GENERAL INCREASES

- a) Definition: A general increase is an increase in the entire wage scale on a specified effective date applied on either a percentage or fixed amount basis.
- b) Procedure: Because the new hourly wage program will pass through three transitional phases, the procedures applicable to the administration of general increases will vary from phase to phase and according to whether an employee is an incentive worker or a day rate worker.

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Phase I (First Year)

Incentive Workers

- * An incentive worker whose base rate plus sidecar falls at or below job rate of his pay grade will have the full amount of the general increase added to his base rate.
- ** An incentive worker who is benefiting by a sidecar and whose rate plus sidecar falls above the job rate of his pay grade but is at or below 45¢ above job rate, will have the full amount of the general increase added to his base rate and his sidecar reduced by 50% of the general increase.
- *** An incentive worker who is benefiting by a sidecar and whose base rate plus his sidecar falls above the job rate plus 45¢ will have his base rate increased by the full amount of the general increase and his sidecar reduced by the precise amount of the general increase.

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Phase I (First Year)

Day Workers

- * An employee assigned to a day work job whose base rate falls within the range of his pay grade, will have the full amount of the general increase added to his base rate.
- ** An employee assigned to a day work job whose base rate falls above the job rate of his pay grade but is at or below 45¢ above the job rate, will have 50% of the general increase added to his base rate, unless the resulting base rate is less than the new job rate for his pay grade, in which case he will receive the new job rate of his grade.
- *** An employee assigned to a day work job whose base rate falls above the job rate plus 45¢ will receive no general increase, unless the resulting base rate is less than the new job rate, in which case he will receive the new job rate for his pay grade.

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Phase II (Second Year)

Incentive Workers

- * An incentive worker whose base rate plus sidecar falls within the rate range of his pay grade will have the full amount of the general increase added to his base rate.
- ** An incentive worker who is benefiting by a sidecar and whose rate plus sidecar falls above the job rate of his pay grade but is at or below 30¢ above job rate, will have the full amount of the general increase added to his base rate and his sidecar reduced by 50% of the general increase.
- *** An incentive worker who is benefiting by a sidecar and whose base rate plus his sidecar falls above the job rate plus 30¢ will have his base rate increased by the full amount of the general increase and his sidecar reduced by the precise amount of the general increase.

Wage Payment Policies & Procedures	Date Issued 2/1/71	Authorized 	Replaces New	Prepared By KC	General Instruction FD 4.9	Section IV	Page 5	Audit
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Phase II (Second Year)

Day Workers

- * An employee assigned to a day work job whose base rate falls within the range of his pay grade will have the full amount of the general increase added to his base rate.
- ** An employee assigned to a day work job whose base rate falls above the job rate of his pay grade but is at or below 30¢ above the job rate will have 50% of the general increase added to his base rate, unless the resulting base rate is less than the new job rate for his pay grade, in which case he will receive the new job rate of his grade.
- *** An employee assigned to a day work job whose base rate falls above the job rate plus 30¢ will receive no general increase, unless the resulting base rate is less than the new job rate, in which case he will receive the new job rate for his pay grade.

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Phase III (Third Year)

Incentive Workers

- * An incentive worker whose base rate plus sidecar falls within the rate range of his pay grade will have the full amount of the general increase added to his base rate.
- ** An incentive worker who is benefiting by a sidecar and whose rate plus sidecar falls above the job rate of his pay grade but is at or below 15¢ above job rate, will have the full amount of the general increase added to his base rate and his sidecar reduced by 50% of the general increase.
- *** An incentive worker who is benefiting by a sidecar and whose base rate plus his sidecar falls above the job rate plus 15¢ will have his base rate increased by the full amount of the general increase and his sidecar reduced by the precise amount of the general increase.

Wage Payment Policies & Procedures	Date Issued 2/1/71	Authorized GBS	Replaces New	Prepared By K	General Instruction ER 4.9	Section IV	Page 7	Audit
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Phase III (Third Year)

Day Workers

- * An employee assigned to a day work job whose base rate falls within the range of his pay grade will have the full amount of the general increase added to his base rate.
- ** An employee assigned to a day work job whose base rate falls above the job rate of his pay grade but is at or below 15¢ above the job rate will have 50% of the general increase added to his base rate, unless the resulting base rate is less than the new job rate for his pay grade, in which case he will receive the new job rate of his grade.
- *** An employee assigned to a day work job whose base rate falls above the job rate plus 15¢ will receive no general increase, unless the resulting base rate is less than the new job rate, in which case he will receive the new job rate for his pay grade.

Wage Payment Policies & Procedures	Date Issued	Authorized	Replaces	Prepared By	General Instruction	Section	Page	Audit
	2/1/71	GBJ	New	16-	ER 4.9	IV	7A	

Effective Dates for Phased Changes in Above-Job Rate Restrictions

The progressive reduction of the above-job rate limits from +45¢ to +30¢ to +15¢ will become effective on the anniversary date of the installation of the wage program in the first department.

Wage Payment Policies & Procedures	Date Issued 2/1/71	Authorized (Signature)	Replaces New	Prepared By LK	General Instruction EP 4.9	Section IV	Page 8	Audit
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2. AUTOMATIC PROGRESSION

- a) Definition: Automatic progression is the phased upward movement of an employee's base rate from the minimum of the pay grade (or any rate position below job rate) to the job rate in 5¢ increments every four months, where such movement is based solely on the passage of time from date of installation of the plan.

b) Procedure:

Incentive Workers

An incentive worker whose base rate falls at the minimum of the rate range of his pay grade or at any rate position up to but not including job rate of his pay grade will have his base rate increased by 5¢ per hour at specified 4-month intervals until job rate is attained.

Application of Sidecars - An incentive worker whose base rate is increased through automatic progression will, on the effective date of the increase in base rate, have his sidecar reduced by the precise amount of the increase.

Day Workers

A day worker whose base rate falls at the minimum of the rate range of his pay grade or at any rate position up to but not including job rate of his pay grade will have his base rate increased by 5¢ per hour at specified 4-month intervals until job rate is attained.

c) Effect on the Minimum Rate:

Coincident with each successive automatic increase, the minimum rate for each pay grade will be increased by 5¢ until the minimum rate becomes 15¢ below job rate.

d) Effective Dates of Automatic Increases:

Automatic increases will become effective at the start of the work week immediately following the completion of each successive four calendar month period beginning with the date on which the new wage payment program is installed in the first department.

e) Employees Whose Rates at Time of Installation Fall Above or Below An Established Rate Position:

Employees whose base rates at time of installation of the wage payment program fall above or below an established rate position will retain their existing "off step" rate until the first automatic increase at which time they will receive the 5¢ automatic increase plus the additional amount necessary to bring them to the next highest rate position.

Wage Payment Policies & Procedures	Date Issued	Authorized	Replaces	Prepared By	General Instruction	Section	Page	Audit
	5/10/71	<i>[Signature]</i>	New	<i>[Signature]</i>	ER 4.9	IV	8A	

EFFECT OF AUTOMATIC INCREASES ON RATES OF EMPLOYEES NOT YET INSTALLED UNDER
THE WAGE PAYMENT PLAN

Employees in the active employ of the company at the time of an automatic increase who do not benefit by automatic increase (s) because they have not been installed under the plan will have added to their base rates at the time of their installation the total amount of the automatic increases missed while awaiting installation.

Example:

On Active Payroll As:	Grade 12	\$2.25/HR
Automatic Increase:	6-7-71	
Automatic Increase:	10-11-71	
Installed Under Job Evaluation:	11-1-71	\$2.25/HR +
	(Automatic Increase)	<u>.10/HR</u>
		\$2.35/HR
		(BASE RATE AT INSTALLATION)

Wage Payment Policies & Procedures	Date Issued 2/1/71	Authorized 	Replaces New	Prepared By 	General Instruction EP 4.9	Section IV	Page 9	Audi-
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3. NEW HIRES

- a) Definition: A new hire is an applicant employed by the Company for the first time, having had no previous service with the Company.
- b) Procedure: Under normal conditions, new hires will be employed at the minimum or hiring rate of the rate range for the job (see Section II, A, 3). However, if, in the considered opinion of supervision a job applicant for a day work job possesses experience and/or skills which warrant the applicant's being employed at a rate above the hiring rate, such applicant may be hired at any rate position in the range up to and including job rate.
- c) Approvals required: The employment of a new hire at a rate position above the minimum or hiring rate requires the specific approval of both the Factory Manager and the Factory Personnel Manager. Such approvals shall be granted only after the proposed above minimum hire rate has been reviewed in the light of existing rates in the department or cost center involved to insure proper rate relationships.

4. REHIRES WITHOUT SENIORITY

- a) Definition: A rehire without seniority is an applicant with previous Company service who is re-employed after having terminated employment for one of the following reasons:
 - Voluntary resignation
 - Discharge
 - Expiration of re-employment privilege period (See Layoff and Re-employment Policy - ER1.7)
 - Failure to return from leave of absence
- b) Procedure: Rehires without seniority will be treated in the same manner as New Hires (see 3, b above).

5. REHIRES WITH SENIORITY

- a) Definition: A rehire with seniority is an applicant with previous Company service who is re-employed after having been:
 - laid off for lack of work and is returning within the re-employment privilege period. (See Layoff and Re-employment Policy - ER1.7).
 - terminated to enter military service and is returning while still eligible for veteran rehire rights as defined by the Military Selective Service Act.
 - terminated due to pregnancy and is returning in accordance with the conditions set forth in Company policy.
 - on leave of absence and is returning in accordance with the conditions of the leave.

Wage Payment Policies & Procedures	Date Issued	Authorized	Replaces	Prepared By	General Instruction	Section	Page	Audit
	1/11/71	<i>[Signature]</i>	2/1/71	<i>[Signature]</i>	ER1.7	IV	9A	

b) Procedure:

Day Workers

Rehires without seniority who, in the considered opinion of supervision, possess the experience, skills and past record of performance which warrant the applicant's being employed at a rate above the hiring rate, may be rehired at any rate position in the range up to and including, but not in excess of, job rate.

Incentive Workers

Rehires without seniority returning to the same job to which assigned at time of termination, may be rehired at any rate position up to and including, but not in excess of, the base rate for the job, provided the employee's experience, skills and past performance warrant such placement above the hiring rate.

5. REHIRE WITH SENIORITY

a) Definition: A rehire with seniority is an applicant with previous Company service who is re-employed after having been:

- laid-off for lack of work and is returning within the re-employment privilege period. (See Layoff and Re-employment Policy - ER1.7.)
- terminated to enter military service and is returning while still eligible for veteran rehire rights as defined by the Military Selective Service Act.
- terminated due to pregnancy and is returning in accordance with the conditions set forth in Company policy.
- on leave of absence and is returning in accordance with the conditions of the leave.

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b) Procedure:

Rehire with Seniority

Incentive Workers

An incentive worker rehired with seniority to any incentive job will be paid the base rate of the job to which he is rehired.

Application of Sidecars - an incentive worker rehired with seniority who had benefit of a sidecar during his most recent period of employment will have his sidecar reduced by the following:

- automatic increases which have applied to the job to which he is rehired.
- general increases which would have applied to him in the job to which he is rehired.
- the amount by which the base rate of the new job is currently greater than the base rate of his former job, if the new job is different.

Rehire with Seniority to the Same Job

Day Workers

A day worker rehired with seniority to the same job held at time of termination will be re-employed at the same time held at time of termination, adjusted upward by any applicable general increases and/or automatic increases.

Rehire with Seniority to a Different Job

Same Pay Grade:

Day Workers

A day worker rehired with seniority to a different job in the same pay grade will be re-employed at the same rate held at time of termination adjusted upward by any general and/or automatic increases.

Higher Pay Grade:

Day Workers

A day worker, rehired to a different job in a higher pay grade, will be re-employed at the same rate position in the higher graded job as held at time of termination, provided his rate at time of termination was at or below job rate.

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If his rate at time of termination was above job rate, he will be re-employed on the higher graded job at the same rate held at time of termination or job rate adjusted upward by any general and/or automatic increases applicable to the job to which he is rehired, whichever is higher.

Lower Pay Grade:

Day Workers

A day worker rehired to a different job in a lower pay grade will be re-employed at the same rate position in the lower graded job as that held at time of termination, provided his rate at time of termination was at or below job rate.

If his rate at time of termination was above job rate, he will be re-employed on the lower graded job at job rate.

6. TRANSFERS

- a) Definition: A transfer is a change in an active employee's status from one job to another within the same pay grade.
- b) Procedure:

Incentive Worker

An incentive worker transferred to a different job within the same pay grade will be paid the base rate of the job to which he is being transferred.

Application of Sidecars - An incentive worker, transferred to a different job, who had benefit of a sidecar at time of transfer, will retain his sidecar, adjusted downward by the precise amount of any increase in the base rate.

Day Worker

A day worker, transferred to a different job, will be paid the same base rate as held on the job from which he is being transferred.

Temporary Transfers

- a) Definition: A temporary transfer is the reassignment of an employee to another job for a period not in excess of two (2) weeks.

Wage Payment Policies & Procedures	Date Issued 2/1/77	Authorized [Signature]	Replaces New	Prepared By [Signature]	General Instruction ER 4.9	Section IV	Page 12	Audit
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b) Procedure:

Incentive and Day Workers

An incentive or day worker may be transferred to another job, regardless of pay grade for a period of up to two (2) calendar weeks and be paid his existing base rate plus any applicable sidecars.

If the job to which the employee is being transferred is an established job, the employee must be transferred to that job at the end of the two-week period or as soon as it is apparent that the new assignment will extend beyond the two-week period.

If the function to which the employee is being reassigned is not an established job and it is apparent that the function will be performed beyond the two-week period, Wage Administration should be contacted immediately in order to provide a temporary job for assignment thereto.

Special Temporary Rates

- a) Definition: A special temporary rate is a rate assigned to an employee who is assigned to a special task which is experimental or developmental in nature and is paid for periods of not less than one (1) work day and not more than 30 calendar days.
- b) Procedures: An incentive worker may be paid a special temporary rate equal to his base rate plus 25% of base rate plus applicable sidecar. Experimental or developmental assignments which will extend beyond 30 days should be reviewed with Wage Administration for establishment of a temporary job.
- c) Approvals: The assignment of a Special Temporary Rate requires the written approval of the General Manager-Manufacturing in advance of the effective date of the new rate.

7. PROMOTIONS

- a) Definition: A promotion is the change in an active employee's status from one job to another job in a higher pay grade.

b) Procedure:

Incentive Workers

An incentive worker promoted to a higher graded job will receive the base rate of the higher graded job.

Application of Sidecars - An incentive worker who is promoted and who had benefit of a sidecar at time of promotion will maintain that same sidecar reduced by the amount of the increase in base rate, if any.

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Day Workers

A day worker, whose rate is at or below job rate, promoted to a higher graded job will be paid at the same rate position as held on the lower graded job.

A day worker whose rate is above job rate will be paid the job rate of the new job or the rate held on the lower graded job, whichever is higher.

8. DEMOTIONS

a) Definition: A demotion is the change in an employee's status from one job to another job in a lower pay grade.

b) Procedure:

Incentive Workers

An incentive worker who is demoted to a lower graded job will be paid the base rate of the job to which he is demoted.

Application of Sidecars: An incentive worker who is demoted will receive the same sidecar as held on the higher graded job, reduced by the amount of increase in base rate, if any.

Day Workers

A day worker, whose base rate is at or below job rate, demoted to a lower graded job will be paid at the same rate position held on the higher graded job.

A day worker whose base rate is above job rate will be paid the job rate of the lower graded job.

9. CHANGE OF STATUS BETWEEN INCENTIVE & DAYWORK JOBS

Movement from Incentive Job to Daywork Job

An incentive worker who is transferred, promoted, demoted or rehired with seniority to a daywork job, will be paid an amount equal to his former base rate plus sidecar, but not in excess of job rate of the new pay grade.

Movement from Daywork Job to Incentive Job

An employee assigned to a daywork job who is transferred, promoted, demoted, or rehired with seniority to an incentive job, will be paid the base rate of the new job.

INTERNATIONAL SILVER COMPANY
MERIDEN, CONNECTICUT 06450

GRIEVANCE FORM

Factory E - Area I - Ed Rich Committeeman - E-73-110

NATURE OF GRIEVANCE AND FACTS THEN KNOWN:

I the undersigned claim that the company by denying me a sidecard is guilty of acting in a discriminatory nature, and is in violation of Federal Labor Laws, pertaining to equal pay for equal work. As these sidecards and red circle rates are supposedly based on average hourly earnings of 1970, I feel that the company by agreeing to adjust the seniority rights of those of us who were laid off in 1970, that it gave up its claim to any break in service or that I along with those employees similar affected are "new" help.

(Use Reverse Side if Necessary)

REMEDY REQUESTED

That a sidecard or red circle rate based on the 1970 average hourly earnings be given to me and those affected by the layoffs of 1970 and that we be compensated retroactively to official date of agreement to restore our seniority.

VIOLATION CLAIMED (If any)	ARTICLE	SECTION	DATE	TIME	A.M. P.M.
EMPLOYEE Signature	CLOCK NO.	COST CENTER	SHIFT	DATE SUBMITTED	TIME
s/Antonio Fresco	2027	20	1st	8-21-73	2:00
DISPOSITION - STEP 1					
8/23/73					

FOREMAN	DEPT.	DATE	TIME	A.M. P.M.
s/Ralph Crispino				
ACCEPTED ☐	APPEALED ☒	COMMITTEEMAN SIGNATURE	DATE	TIME
		s/Edward Rich	8/24/73	
DISPOSITION - STEP 2				

SUPERINTENDENT	DATE
Signature: s/W. Hiller	
ACCEPTED ☐	APPEALED ☒
COMMITTEEMAN SIGNATURE	DATE
Signature: s/Edward Rich	8/29/73
DISPOSITION - STEP 3	

FACTORY MANAGER	DATE
Signature: s/E. VanAlmkert	9/23/73
ACCEPTED ☐	APPEALED ☐
CHAIRMAN GRIEVANCE COMMITTEE	DATE
Signature:	
DISPOSITION - STEP 4	

PERSONNEL DIRECTOR	DATE
Signature:	
DISPOSITION - STEP 5	

FILED
AUG 16 2 39 PM '75
U.S. DISTRICT COURT
NEW HAVEN, CONN.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

INTERNATIONAL SILVER
COMPANY,
Plaintiff

VS.

UNITED STEELWORKERS OF
AMERICA, AFL-CIO, ET AL,
Defendants

CIVIL ACTION NO. B-74-284

RULING ON CROSS-MOTIONS FOR
SUMMARY JUDGMENT

In this civil action arising from a disputed labor arbitration award, removed from state court pursuant to 28 U.S.C. § 1441, see, e.g., Ingraham Co. v. Local 260, Int'l Union of Electrical, Radio & Machine Workers, AFL-CIO, 171 F. Supp. 103 (D. Conn. 1959), plaintiff seeks to have the award vacated and defendants have counterclaimed for confirmation; the essential issue is whether the arbitrator exceeded his authority under the applicable collective bargaining agreement by resting decision on extraneous agreements. The parties have submitted cross-motions for summary judgment, pursuant to Rule 56, Fed. R. Civ. P.

While joint resort to summary judgment applications never guarantees a sufficient framework of undisputed fact impelling judgment for either plaintiff or defendants, see, e.g., Rhoads v. McFerran, ___ F.2d ___, slip op. 3849, 3851 (2 Cir. May 30,

1975), American Manufacturers Mutual Ins. Co. v. American Broadcasting-Paramount Theatres, Inc., 388 F.2d 272, 279 (2 Cir. 1967), the conclusion in this case that further proceedings are necessary is one reached with some reluctance lest developments hereafter verge on an inappropriate review of the award's merits "under the guise that the arbitrator has exceeded his authority", Torrington Co. v. Metal Products Workers Union Local 1645, 362 F.2d 677, 684 (2 Cir. 1966) (Feinberg, J., dissenting). Nevertheless, whether the arbitrator here simply had proper recourse to extrinsic evidence of the contracting parties' intent, see Humble Oil & Refining Co. v. Local 866, Int'l Brotherhood of Teamsters, 447 F.2d 229, 232-233 (2 Cir. 1971), or instead went beyond his "contractual jurisdiction", Torrington Co., supra, n. 6 at 680, cannot be determined as a matter of law because the record presented is inadequate to serve that desirable purpose. Submission of the governing collective bargaining agreement would permit scrutiny of conceivably relevant provisions mentioned in the briefs and not recited on the face of the pleadings, but no such easy cure for an inadvertent omission can be readily suggested for the problem of conflicting characterizations of the evidence received by the arbitrator. Examination of the latter's generally helpful opinion does not clear up a seeming ambiguity in his summary of the grievance testimony arguably supporting either defendants' position that "agreement history" and "contract negotiations" were correctly considered to ascertain what a disputed contract provision "was designed to embrace" or plaintiff's view that the contract framework was abandoned to reach decision on extraneous purported agreements beyond

the arbitrator's power to enforce; although these opposing contentions represent in part legal argument, on at least the existing record there is a plainly factual element which appears both material and susceptible of resolution only by a choice of inferences, forbidden on summary judgment, see United States v. Diebold, Inc., 369 U.S. 654, 655 (1962), cf. American Manufacturers, supra at 279.

The pending cross-motions for summary judgment are accordingly denied.

Dated at New Haven, Connecticut, this 14th day of August 1975.

Arthur H. Levine
United States Magistrate

SO ORDERED

Robert C. Zamparelli
United States District Judge

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

FILED
3090426
DEC 1 10 15 AM '76

INTERNATIONAL SILVER COMPANY, :

Plaintiff, :

v. :

CIVIL NO. B-74-284

UNITED STEELWORKERS OF AMERICA, :

AFL-CIO, et al, :

Defendants. :

U.S. DISTRICT COURT
NEW HAVEN, CONN.

MEMORANDUM OF DECISION

In this civil case, pursuant to 29 U.S.C. § 185, plaintiff seeks to have a labor arbitration award vacated on the grounds that the arbitrator exceeded his authority, 9 U.S.C. § 10(d); and defendant counterclaims to have the award confirmed. A court trial was held on June 15, 1976, and comprehensive briefs have now been filed.

The material facts are not in dispute. In March 1973, plaintiff and defendant unions entered into their first collective bargaining agreement which, in part, altered the plaintiff's policy on recall rights after layoffs for lack of work. See Joint Ex. A, Article X Section 3(g). A dispute arose over the status of employees who had been laid off and recalled as new hires under the plaintiff's old policy, but would have been entitled to retain their seniority status under the provisions of the collective bargaining agreement. Specifically, the dispute focused on whether these employees were entitled to receive "sidcar payments" which were awarded to persons employed in February 1971.^{1/}

By agreement of the parties, the dispute was submitted to arbitration and a hearing was held on May 8, 1974. The arbitrator sustained the defendants' position and his award ordered that defendant Aresco and other employees similarly situated be granted sidecar payments retroactive to August 17, 1973, the date on which the plaintiff issued a revised seniority list showing which employees were entitled to these payments. See Joint Ex. B. In reaching his decision, the arbitrator relied on the testimony of John Sartori, a union staff representative, that during contract negotiations an agreement was reached to extend recall rights retroactively including all benefits, except that the plaintiff would have no monetary liability for actions under the former policy.

The plaintiff contends that the arbitrator exceeded his authority in relying on extraneous oral agreements in reaching his decision. Relying on Torrington Co. v. Metal Product Workers Union Local 1645, 362 F.2d 677 (2 Cir. 1966), the plaintiff argues that there is no support for the defendants' analysis of the contract and the arbitrator's resort to agreements outside the framework of negotiations to confer a specific benefit was improper.

On the other hand, defendants contend that the agreement history and the contract negotiations were properly considered to ascertain the scope of a disputed contract provision. That provision, Art. X, Section 3, see Joint Ex. A, expanded recall rights for employees under the contract. The effect of this provision on employees who had lost their seniority when recalled under the previous policy

was discussed but never incorporated into the contract. Defendants submit that it was appropriate to resort to oral agreements reached during contract negotiations to discover 1) which employees were to benefit from extended recall rights and 2) a description of those rights. See Humble Oil and Refining Co. v. Local 866, Int. Bro. of Team., Etc., 447 F.2d 229 (2 Cir. 1971); Medo Photo Supply Corp. v. Livingston, 274 F. Supp. 209 (S.D.N.Y.), *aff'd*, 386 F.2d 451 (2 Cir. 1967).

In resolving this case, the Court initially notes that judicial review of an arbitrator's decision is limited to determining whether the decision "draws its essence from the collective bargaining agreement." United Steelworkers of America v. Enterprise Wheel & Car Corp., 363 U.S. 593, 597 (1960). In interpreting a collective bargaining agreement it is often necessary to go beyond the four corners of the contract itself and examine the agreement history to ascertain the intent of the agreement and to determine the rights and duties of the parties. See United Steelworkers of America v. Warrior & Gulf Nav. Co., 363 U.S. 574 (1960); Humble Oil and Refining Co. v. Teamsters Local 866, *supra* at 232-233; accord International Union, Etc. v. White Motor Corp., 505 F.2d 1193 (8 Cir. 1974). For the following reasons, the Court finds that the arbitrator did not exceed his authority and denies plaintiff's petition to vacate the award.

The record presented to this Court at trial reveals that the retroactive application of the provision on recall rights was discussed during the contract negotiations in March 1973. At that time, plaintiff agreed orally, although

not in writing, that an agreement would be worked out extending seniority benefits retroactively to employees who had lost these rights when recalled under the former policy but would have been eligible for them under the new contract provision. The plaintiff has never disputed making this agreement and, in fact, did restore seniority rights to defendant Aresco and workers similarly situated. However, it refused to institute sidcar payments because these allegedly constituted a monetary liability which the company had refused to accept.

In finding that defendant Aresco was entitled to seniority benefits as of the signing of the 1973 contract, the arbitrator relied on the bargaining history of the contract in order to determine the intended scope of the recall provision. Cf. Medo Photo Supply Corp. v. Livingston, supra. But he was neither using his power "to add to or subtract from or modify in any way any of the terms of this Agreement," Joint Ex. A, Art. IX, Section 2(d), nor was he looking to past practice to find that a benefit was implied in the terms of the agreement, see Torrington Co. v. Metal Product Workers Union Local 1645, supra. The oral agreements entered into between the parties draw their essence from the collective bargaining agreement as part of the contract negotiations. They are essential to a correct construction and application of the contract; and therefore, the arbitrator's decision was within his delegated power.

Furthermore, having found that, once the contract was signed, defendant Aresco was to be credited with continuous service from his original date of hire, the arbi-

trator could conclude from the plaintiff's established policy see Joint Ex. D, that he was entitled to sidecar payments as of August 17, 1973. See Humble Oil & Refining Co. v. Local 866, Int. Bro. of Team., Etc., supra.

Accordingly, the plaintiff's petition to vacate the award is denied, the defendants' counterclaim to confirm the award is granted.

SO ORDERED.

Dated at New Haven, Connecticut, this 30th day of November, 1976.

Robert C. Zappano
United States District Judge

FOOTNOTES

1/ Defendant Aresco was laid off in May 1970 and recalled in August 1971, thus, losing his recall rights under the plaintiff's former policy. See Joint Ex. C., Section IV B.

However, in February 1971, the plaintiff introduced a new salary formula and provided for "sidecar payments" to employees whose 1970 earnings were lower than those under the new system to maintain their previous earning level. Because his recall rights had expired before he returned to work, defendant Aresco was not granted this benefit.

2/ The Court agrees with the arbitrator's conclusion that Defendant Aresco's eligibility for sidecar payments as of August 17, 1973, creates no monetary liability for past actions by plaintiff under the former policy. Defendant Aresco does not seek back pay for denial of sidecar payments from August 1971 - August 1973; he seeks sidecar payments from the time that his seniority benefits were restored by the agreement concomitant with the signing of the 1973 contract.